

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
EASTERN DIVISION**

THOMAS MESS,

Plaintiff,

vs.

CAROLYN W. COLVIN, Commissioner
of Social Security,

Defendant.

No. 15-CV-1013-LRR

ORDER

I. INTRODUCTION AND BACKGROUND

The matter before the court is United States Magistrate Judge C.J. Williams's Report and Recommendation (docket no. 17). The Report and Recommendation recommends that the court affirm the final decision of the Defendant Commissioner of Social Security ("Commissioner") denying Plaintiff Thomas Mess's application for Title II disability insurance benefits and Title XVI supplemental security income benefits.

On April 30, 2015, Mess filed a Complaint (docket no. 4), requesting judicial review of the Commissioner's decision to deny his application for social security benefits. On June 29, 2015, the Commissioner filed an Answer (docket no. 9). On February 19, 2016, the matter was referred to Judge Williams for issuance of a report and recommendation pursuant to 28 U.S.C. § 636(b)(1)(B) after being briefed by the parties.¹ *See* Plaintiff's Brief (docket no. 12); Defendant's Brief (docket no. 14). On May 16, 2016, Judge Williams issued the Report and Recommendation. In the Report and Recommendation, Judge Williams advised the parties that "[o]bjections to the Report and

¹ This matter was initially referred to United States District Court Judge Leonard T. Strand for issuance of a Report and Recommendation on September 1, 2015. However, the case was subsequently transferred to Judge Williams.

Recommendation in accordance with 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b) must be filed within fourteen (14) days of the service of a copy of th[e] Report and Recommendation.” Report and Recommendation at 24. Neither party has filed objections to the Report and Recommendation, and the time for doing so has passed. The court, therefore, undertakes the necessary review of Judge Williams’s recommendation to affirm the Commissioner’s decision.

II. ANALYSIS

Pursuant to statute, this court’s standard of review for a magistrate judge’s Report and Recommendation is as follows:

A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made. A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.

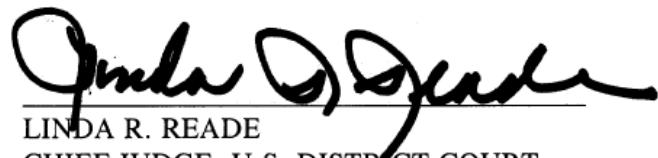
28 U.S.C. § 636(b)(1). Similarly, Federal Rule of Civil Procedure 72(b) provides for de novo review of a magistrate judge’s Report and Recommendation on dispositive motions when objections are made. Fed. R. Civ. P. 72(b)(3). The Eighth Circuit has held that it is reversible error for a district court to fail to conduct a de novo review of a magistrate judge’s Report and Recommendation when such review is required. *See, e.g., United States v. Lothridge*, 324 F.3d 599, 600 (8th Cir. 2003). The court reviews the unobjectionable portions of the proposed findings or recommendations for “plain error.” *See United States v. Rodriguez*, 484 F.3d 1006, 1010-11 (8th Cir. 2007) (noting that, where a party does not file objections to a magistrate’s report and recommendation, the party waives the right to de novo review and the court will review the decision for plain error).

In this case, no objections have been filed, and it appears to the court upon review of Judge Williams’s findings and conclusions that there is no ground to reject or modify them. Therefore, the court **ADOPTS** Judge Williams’s Report and Recommendation of

May 16, 2016 and **AFFIRMS** the final decision of the Commissioner. The Complaint (docket no. 4) is **DISMISSED WITH PREJUDICE**.

IT IS SO ORDERED.

DATED this 14th day of June, 2016.



LINDA R. READE
CHIEF JUDGE, U.S. DISTRICT COURT
NORTHERN DISTRICT OF IOWA